



“Sonia Sotomayor for Supreme Court Justice: Good Nomination or Bad?”

June 30, 2009

Discussion Notes

Opening Comments

Welcome from TEAM Westport Chair Harold Bailey

Remarks and description of current Supreme Court from Professor Stephane J. Kirven, Criminal Justice Dept., Sacred Heart University

Moderator: Judith Hamer, Ph.D:

Principles of an “Open Space” meeting:

- Whoever comes is the right people
- Whatever happens is the only thing that could happen
- Whenever it starts is the right time
- When it ends, it’s over

and The Law of Two Feet: Everyone has two feet; be prepared to use them.

For more on TEAM Westport, see www.teamwestport.org

For more on the process we used, see www.openspaceworld.com.

Small Group Discussion Notes

Group A – How will Sotomayor’s appointment affect the Supreme Court’s liberal/conservative outlook?

- Liberal - ? Because President Obama nominated her. It’s important to have another woman on the Court. Liberal/conservative will depend on the issue. Can a Catholic be liberal? Can 6 Catholics? Is that a concern? Don’t stereotype with labels. A broad variety of experience is good.
- Character point: Sotomayor’s ability to deal with her major health issue of Type 1 diabetes is a sign of strength and discipline.
- Sotomayor is 55 years old and potentially has a long time to serve on the Court. She may become more liberal with age, as other Justices have done.



- Liberal on race issues (Ricci v. DeStefano in New Haven)
- As a Hispanic and a woman, Sotomayor's "persona" ~~may~~ will change the dynamic on the Court and impact other Justices.
- Because of her life experience, Sotomayor may raise awareness and open new perspectives for the other Justices.
- Different from Justice Clarence Thomas. She seems to have sympathy for issues of race and poverty.
- She may understand systemic racism.
- Is she mean? Does it matter? Is it true?
- Sotomayor is not afraid to state truths about race and racism, i.e., 1993 comment on Hispanic women "better" than white men.
- Social issues: abortion, gay rights, affirmative action (affecting education and jobs), separation of church and state.

Group B combined two topics – Does Sotomayor have the right judicial temperament? and What are some “lightning rod” issues in Sotomayor’s past that could engender charges of judicial activism?

- Media calls her an “activist”
- Can she be objective?
- Can anyone leave their own “history” behind?
- Sotomayor’s track record is not “pro” Hispanic (class issue).
- Sotomayor has greater judicial experience than most judges.
- In Ricci v. DeStefano (New Haven firefighters), she took the majority side – an okay decision but badly timed politically with the Supreme Court’s reversal this week.
- Sotomayor shows her human-ness and may take “heat” for doing so.



- The state of the Republican Party's disarray may precipitate more intense objections to her nomination.
- Will her nomination change the liberal/conservative balance on the Court?
- How self-aware is she?
- Sotomayor seems reasoned, more so than some others, and her track record supports this.
- Sotomayor's knowledge of class issues is likely unknown to some others and will bring an important perspective to the Court (contrast to Justice Thomas).

Group C – What politics motivated President Obama to nominate Sotomayor?

- A matter of ideology.
- Agreement with Obama's perspectives and philosophy.
- Wanting to create a more liberal balance on the Court.
- Pressure to appoint a woman and a Hispanic.
- Pressure to offset the influence of Justices Thomas, Scalia, Roberts and Alito.
- A counterbalance to losing Justice Souter.
- The importance of immigration issues.
- Payback time – 73% of Hispanics voted for Obama.
- View on women's issues, e.g., Roe v. Wade.
- A wish not to antagonize Congress, i.e., Sotomayor is not a "roaring liberal."
- President Obama's desire to affect the politics (dynamic) of decision-making on the Supreme Court.
- Selecting someone who is both highly qualified and empathic, which is politically attractive to Obama's "politics of hope" constituency.
- Emotion may not be Sotomayor's favor during the Senate hearings.



Group D – In light of the Supreme Court’s decision in Ricci v. DeStefano, how will Sotomayor’s nomination affect affirmative action decisions in the future?

- In court research, it has been demonstrated that when you have a non-standard Justice on the bench, minorities etc. get a fairer share. So, if affirmative action is fair, it bodes well. Given demographic trends, all future presidents will be at least as liberal as Obama, so Sotomayor’s place on the bench will do nothing but hasten and affirm affirmative action.
- There is no such thing as a completely objective decision. Life experience and background always come into decision.
- Sotomayor will not change the balance of the Supreme Court from its current 5-4 in light of the Ricci decision.
- Most American Catholics, like non-Catholics, support a woman’s right to choose.
- The decision in Ricci was based on the fear of a lawsuit from minorities, despite the fact that independent people researched the firefighters’ exam. The appellate decision in this case was overturned recently and rightfully so.
- Since Sotomayor is Puerto Rican, she’s not only Hispanic but she is also European white as well as Black African not to speak of Red American Indian (Arawak Taino), all at once. And since she is Spanish European, there’s a good chance her heritage is Jewish, converted to Catholicism to protect the family. She is also legally disabled by her Type 1 diabetes (since she was 8 years old) and also healthy.
- Re: identity politics charges, nothing is more political than the White male Protestant identities of all the Justices during the first 180 years of the Supreme Court.

NB – the following topics were proposed but not discussed:

- **Is Sotomayor qualified to be a Supreme Court Justice?**
- **Given the Democrats now have 60 votes in the Senate, is it worth debating the Sotomayor nomination?**



Large Group Discussion

After all the small discussion groups were thanked for their reports, the moderator posed a question for all the participants: **How does what we have discussed this evening apply to Westport/Weston?**

- This is a special community. We're interested in "fairness" and believe we have a responsibility to be open-minded.
- I have a completely different take on Westport/Weston. Take, for example, a current hot issue at Staples High School centered on students using derogatory language to describe the ethnicity and social class of Hispanic laborers in this community. We may say what you just said, but that's what our kids are saying and doing. Perhaps Sotomayor's nomination will serve to affect perceptions here in a positive way.
- The effect may be economic more than perceptual.
- This is an affluent community. In fact, it is not a diverse community.
- There are homeless shelters for both men and women in Westport as well as group residences for homeless women with children. But yes, in general, this is an affluent, non-diverse community.
- I hope that her nomination will lead to more discussions like this one.
- I agree. There is tremendous work to do just in our schools – ethnicity, homophobia.
- One article described Sotomayor's reaction on entering Princeton as "going to an alien land." Those of us in Westport/Weston who are also minorities with similar educational backgrounds at prestigious schools understand that very well. We have experienced it here.
- Sotomayor will encourage more Hispanics to aspire.

TEAM Westport Chair Harold Bailey concluded the conversation by thanking all participants, urging them to watch for additional programs in this series as well as lectures and invited all to consider participating in Friends of TEAM Westport and supporting the committee's activities.